

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANIEL F. VEZINA,
Petitioner,
v.
SCOTT FRAUENHEIM,
Respondent.

Case No. [19-cv-00495-RS](#) (PR)

**ORDER DISSOLVING STAY AND
REOPENING ACTION;**

**ORDER TO SHOW CAUSE WHY
THIS HABEAS ACTION SHOULD
NOT BE DISMISSED**

On or before **December 1, 2021**, petitioner must show cause why this federal habeas action should not be dismissed. This action was stayed so that petitioner could exhaust his claims in state court. (Dkt. No. 15.) Respondent has filed a motion to dismiss. (Dkt. No. 17.) In the motion, respondent contends the habeas action should be dismissed because petitioner has abandoned his federal petition. (*Id.* at 2.) In support of this assertion, respondent has attached a copy of what appears to be a filing made by petitioner in his state court proceedings. (*Id.* at 5.) In this document, petitioner lists the claims he filed in his federal habeas proceedings. (*Id.*) Next to “Date of Decision” petitioner wrote “none” and “Abandoned by petitioner.” (*Id.*) Respondent contends that in light of this information “[t]his Court should therefore take petitioner at his word and dismiss the federal petition for failure to prosecute.” (*Id.* at 2.)

On or before **December 1, 2021**, petitioner must file a response to this order. No extensions of time will be granted. In his response, petitioner must show cause why his federal habeas suit should not be dismissed in light of the information respondent has provided. If he wishes to continue to pursue his state court remedies and his federal habeas action, he must say so clearly in his response and provide specific details regarding

1 what steps he has taken toward exhaustion in state court. For example, he should provide
2 the names of the state courts in which he has filed habeas petitions and whether his state
3 petitions are pending or have been terminated by a court ruling. If he wishes to abandon or
4 voluntarily dismiss his federal habeas suit, he should include that information in his filing.
5 Failure to file a response to this order by December 1, 2021 will result in the dismissal of
6 this action for failure to prosecute, see Federal Rule of Civil Procedure 41(b).

7 The stay is DISSOLVED and the action is REOPENED. The Clerk shall modify
8 the docket accordingly.

9 **IT IS SO ORDERED.**

10 **Dated:** October 14, 2021



11 RICHARD SEEBORG
12 Chief United States District Judge
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